IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Bail Appl..No. 5494 of 2007()

CRIME NO. 49/07 OF NEMMARA POLICE STATION
CRMP.3724/2007 of J.M.F.C.-III,PALAKKAD

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PETITIONER/IST ACCUSED

T.M.ASHARAF, S/O. MAKKARUKUTTY,
THALIYATH HOUSE,CHERUVALUR, KORATTY,
THRISSUR DISTRICT.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.SABU SREEDHARAN

RESPONDENTS: STATE

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA , ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5494 of 2007

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Dated this the 12th day of September, 2007

O R D E R

Application for regular bail. The petitioner is the first accused. He faces allegations, inter alia, under Sections 120B, 420 and 468 I.P.C. The crux of the allegations against the petitioner is that he forged a Power of Attorney to facilitate operation of a bank account in the name of the one Mohammed Ashraf. Crime has been registered. Investigation is in progress. The petitioner was arrested on 16.8.2007 and he continues in custody from that date.

2. The learned counsel for the petitioner submits that even if the entire allegations were accepted, there is no justification in the insistence of prolonged and continued custody of the petitioner. He has been in custody for the past about one month. Adequate opportunity has been given to the Investigators to conduct and complete the investigation. The petitioner was given over to the police custody by the court. The pre-trial detention cannot deteriorate into punitive custody and incarceration, submits the learned counsel.

3. The learned Prosecutor opposes the application on the ground that the investigation is not complete. Various other persons also do appear to be involved in the crime. The investigators have not received sufficient time to complete the investigation. In these circumstances, this court may not favourably consider the prayer for grant of bail to the petitioner at this stage, submits the Prosecutor.

4. The case diary has been placed before me. I have perused the same. Having considered all the relevant inputs, I am satisfied that while there is merit in the submissions of the Prosecutor that some further time must be given to the Investigators to complete the investigation, it is not necessary to authorise the continued indefinite detention of the petitioner.

5. In the result:

1) This application is allowed.

2) The petitioner shall be released on bail on the following terms and conditions.

(a) The petitioner shall not be released from custody on the strength of this order prior to 24.9.2007. The Investigators shall in the meantime make every endeavour to complete the investigation.

(b) He shall execute a bond for Rs.2,00,000/- (Rupees two lakhs only) with two solvent sureties each for the like sum to be satisfaction of the learned Magistrate.

(c) He shall make himself available for interrogation before the Investigating Officer on all Mondays, Wednesdays and Fridays between 10 a.m. and 12 noon for a period of three months from the date of his release and thereafter as and when directed by the Investigating Officer in writing to do so.

(R. BASANT)
Judge

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